

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAH Case No. 2011060458

A.C.,

Claimant,

v.

SOUTH CENTRAL LOS ANGELES
REGIONAL CENTER,

Service Agency.

DECISION

Daniel Juárez, Administrative Law Judge (ALJ), Office of Administrative Hearings, heard this matter on August 24, 2011, in Los Angeles, California.

Claimant's mother, P.L., represented A.C. (Claimant).¹

Johanna Arias-Bhatia, Fair Hearing/Government Affairs Manager, represented the South Central Los Angeles Regional Center (Service Agency).

Pamela Carreón, Interpreter, provided interpreter services to Claimant's mother.

The parties submitted the matter for decision on August 24, 2011.

STATEMENT OF THE CASE

Claimant contends he is eligible for services from the Service Agency as a person with a developmental disability.

¹ Initials identify Claimant and his mother to preserve Claimant's confidentiality.

The Service Agency contends Claimant has no developmental disability that would make him eligible under the pertinent statute.

The parties focused their cases on the question of whether Claimant has autism.

FACTUAL FINDINGS

1. Claimant is a three-year-old boy; he lives with his parents and four siblings. He has three sisters, ages 18, 16, and 4, and a brother who is 14. His sibling's ages are approximate as of December 2010.

2. Since November 10, 2009, Claimant has received services from the Service Agency based on eligibility for the Early Start Program. (Govt. Code, § 95000, et seq.) The Early Start Program provides services to eligible children with disabilities until the age of three. Prior to the age of three, the Service Agency must reassess children in the Early Start Program to determine whether they qualify for services under the Lanterman Developmental Disabilities Services Act (the Lanterman Act). (Welf. & Inst. Code, § 4500, et seq.)

3. In approximately December 2010, the Service Agency assessed Claimant for eligibility under the Lanterman Act.

4. The Service Agency denied Claimant eligibility on March 15, 2011. Claimant filed a request for hearing on June 8, 2011.²

5. Ann L. Walker, Ph.D., a clinical psychologist and consultant for the Service Agency, assessed Claimant on December 3, 2010, upon the Service Agency's request. Claimant was two years, six months old at the time of the assessment.

6. Walker made clinical observations, reviewed records, interviewed Claimant's mother, and tested Claimant. Walker wrote in her report that Claimant's mother "seemed to be an honest and accurate informant."

7. According to Walker, Claimant came into the room crying; threw himself to the ground, cried two distinct times, and tried to leave the testing room. His mother eventually calmed him and the evaluation proceeded. Noting these initial behavioral outbursts, Walker nonetheless wrote, "[i]t is felt that this evaluation represents a valid indication of [Claimant's] present level of functioning."

8. Walker administered the following test instruments to Claimant: the Wechsler Preschool and Primary Scales of Intelligence—3rd Edition (WPPSI-3), the Vineland

² The Service Agency did not oppose Claimant's request for hearing as untimely; therefore, Claimant's request is deemed timely.

Adaptive Behavior Scales—Second Edition (Vineland II), Autism Diagnostic Interview—Revised (ADI-R), and the Autism Diagnostic and Observation Schedule, Module 1 (ADOS).

9. On the WPPSI-3, Claimant scored a nonverbal intelligence quotient (IQ) of 108. Walker described Claimant’s nonverbal cognitive intellectual skills in the normal range. Claimant refused to complete the WPPSI-3’s verbal subtests.

10(a). On the Vineland II, Claimant scored a 66 in communication skills (an 11-to-12-month age equivalence), a 69 in daily living skills (a seven-month-to-18-month age equivalence), a 70 in socialization skills (an 11-month-to-13-month age equivalence, and a 93 in motor skills (a 27-month equivalence). Claimant’s adaptive behavior composite score was 70.

10(b). Walker described all of Claimant’s Vineland II scores as in the “mild range,” with the exception of his motor skills score, which she described as in the “normal range.” In her summary, Walker wrote that Claimant “showed significant delays in communication, self-help and social skills, which were significantly delayed in the mild range.” She failed to explain what she meant by “significantly delayed in the mild range.” However, it is noted that Claimant scored approximately a delay of one and one-half year’s age equivalency in communication and socialization, and a delay of between approximately one to two years’ age equivalency in daily living skills. These delay gaps account for more than half of his age at the time of the assessment.

10(c). In describing Claimant’s adaptive skills, Walker wrote: “Claimant drinks from a baby bottle. He does not drink from a cup or straw. He eats with is [*sic*] fingers only. He does not eat with a spoon or fork. [Claimant] does not indicate when he needs a diaper change. He does not pull on or take off clothing. . . . He touches something that his [*sic*] hot and even if it burns him; he touches the hot object again. He touches it immediately after he has been burned.” Walker noted that, according to Claimant’s mother, Claimant’s favorite thing is to sit underneath a table and play alone.

11. Neither the Service Agency nor Walker disputed the accuracy of Claimant’s adaptive skills as described in Factual Finding 10(c).

12. The Service Agency opined that it expects Claimant’s adaptive skills to increase as he gets older and goes to school.

13(a). Walker administered the ADI-R by interviewing Claimant’s mother. Claimant scored an 8 in abnormalities in reciprocal social interaction (the autism cut-off score is 10).³ He scored a 6 in abnormalities in communication (the autism cut-off score is 7). Claimant scored a 6 in restricted and stereotypic patterns of interest (the autism cut-off score is 3). Walker summarized in her report that Claimant’s scores on the ADI-R “yielded patterns of

³ A person with autism should score the cut-off score at a minimum.

interest in the autistic range and reciprocal social interaction and communication skills in the non-autistic range.”

13(b). Pursuant to the ADI-R, Walker wrote that Claimant, “does not sustain eye contact with others,” he “does not share interest and enjoyment with others,” “does not show emotional reciprocity,” and “does not notice how others feel.” Walker further described Claimant as follows: He “has not developed peer relationships appropriate to his developmental level.” He has a “restricted area of interest in that [Claimant] lines up all of his toys.” Claimant “does not demonstrate an unusual adherence to routine.” Claimant has “unusual sensory sensitivity” and “a high pain tolerance.” He has “a number of repetitive motor mannerisms. He rocks, hand flaps, and toe walks and he also head bangs frequently.”

14. Neither the Service Agency nor Walker disputed the accuracy of Claimant’s descriptions in Factual Finding 13(b).

15. In the context of administering the ADOS, Walker described Claimant’s “[b]ehavioral [a]ffective [f]unctioning” as follows: Claimant “used no words to communicate,” but pointed and gestured and grabbed what he wanted. She did not observe the use of stereotypic words. Claimant “showed brief fleeting eye contact. He did not share enjoyment in interaction.” He “did not initiate joint attention.” He “did not respond to attempts to engage him in joint attention.” He “did not respond to the examiner pointing or to the examiner’s eye gaze.” “Social overtures were negligible.” He “was observed engaging in repetitive play,” lining up toy cars for about 20 minutes.

16. On the ADOS, Claimant scored 6 in communication and 12 in reciprocal social interaction. The combined score was 18. Walker noted that the autism cut-off is 12. That is, and Walker agreed, Claimant scored within the autistic range.

17. At hearing, Walker asserted that the ADOS, together with the ADI-R are the “gold standard” testing instruments with which to diagnose autism. She further described the ADOS as the most reliable test instrument in the psychological testing community and the most recommended instrument.

18. Walker concluded, however, that despite scoring within the autistic range on the ADOS, she would not diagnose Claimant with autism. Instead, she diagnosed Claimant with Pervasive Developmental Disorder, Not Otherwise Specified (PDD-NOS).

19. Walker’s summary reads as follows:

[Claimant] is a 2-year and 6 month old boy who meets diagnostic criteria for the diagnosis of Pervasive Developmental Disorder. [Claimant] shows significant delays in language and social skills development, along with some unusual behavior. He shows repetitive motor mannerisms in that he head bangs, hand flaps and toe walks. He shows restricted areas of interest in that he lines up toys. He jargons. He does not show emotional reciprocity.

He does not share interest and enjoyment. He does not use eye contact to modulate social interaction.

The diagnosis of Autistic Disorder is not recommended at this time because [Claimant] is a very young child who has never been exposed to peers in a structured or consistent setting. He has not had the opportunity to develop peer relationships appropriate to his developmental level and he has not had the opportunity to develop age appropriate interactive, imaginative play. For these reasons, the diagnosis of Autistic Disorder is not recommended at this time.

[Claimant] performed in the normal range in nonverbal cognitive intellectual skills. Also in the normal range were his gross and fine motor skills. [Claimant] showed significant delays in communication, self-help and social skills, which were significantly delayed in the mild range.

20. At hearing, Walker gave three reasons why she felt a diagnosis of autism was unwarranted, despite scoring in the autistic range on the ADOS. First, Claimant's initial behavioral outbursts may have negatively affected his performance on the ADOS. Second, at the time of the assessment, Claimant was not yet in preschool, and while he has siblings, he has not been around age peers in a structured setting. With limited opportunities to interact with peers in a structured setting, Walker believes Claimant's abilities may be artificially depressed. Third, at two years and six months of age, Walker believes Claimant was too young when she assessed him. Walker explained that some of Claimant's autistic-like behaviors are common in young children.

21. Walker recommended that Claimant return, "for a second session for the psychological evaluation with this examiner when he is two years, nine months to two years, ten months of age." Claimant's mother was unaware of Walker's suggestion for a second appointment and never brought Claimant back to Walker.

22(a). Walker's decision not to diagnose Claimant with autism was unsupported by the data she elicited in the assessment. The ADI-R found some, but a numerical minority of scores, within the autistic range. The ADOS, however, the current state of the art autism assessment tool, placed Claimant squarely in the autistic range.⁴ Additionally, the undisputed descriptions of Claimant's behaviors and abilities in Walker's assessment report meet the diagnostic criteria of autism, as set forth in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision. (See Factual Findings 29 and 30, for a description of this manual and the diagnostic criteria for autism.)

⁴ The ALJ also notes that, according to the testimony of numerous licensed psychologists and psychiatrists in administrative hearings on the issue of regional center eligibility, the psychological testing community sees the ADOS as the preferred and recommended assessment tool for diagnosing autism. (See Govt. Code, § 11425.50, subd. (c).)

22(b). Furthermore, the three reasons Walker gave for choosing not to diagnose Claimant with autism were inconsistent with her own findings or otherwise faulty. First, Walker cites Claimant's initial behavioral outbursts as having a possibly negative impact on his test results. Yet in her report, Walker opined that the evaluation "represents a valid indication of [Claimant's] present level of functioning." (Factual Finding 7.) She failed to qualify this statement in her report, and saliently wrote this statement after describing Claimant's crying and tantrums. Thus, in her testimony, Walker contradicted her written findings and was unpersuasive on this point. Second, Walker cites the fact that Claimant has not been around age peers in a structured setting like preschool. She fails to explain this reasoning persuasively. Following Walker's reasoning, a child with no siblings who has not yet begun preschool and plays alone (perhaps due to autistic tendencies), would not be diagnosed with autism. Such a conclusion is illogical, particularly where the DSM-IV-TR requires a portion of the delays to manifest prior to age three, and it does not require that a tested individual spend specified time with age peers in structured settings. (See Factual Finding 30.) Third, Walker cites Claimant's age at the time of the assessment (two years, six months) as too young. However, as previously found, the DSM-IV-TR requires a portion of the delays to manifest prior to age three. Additionally, the Department of Developmental Services (DDS), in California Code of Regulations, title 17, section 52112, sets forth the transition process from the Early Start Program, directing regional centers to begin the assessment process between two years, six months and two years, nine months of age. (Cal. Code Regs., tit. 17, § 52112.) Still further, in its publication entitled, "Autism Spectrum Disorders, Best Practice Guidelines for Screening, Diagnosis and Assessment (2002)" (hereinafter sometimes referred to as the "Best Practice Guidelines"), DDS asserts that, "autism can be reliably diagnosed by an experienced clinician in children between the ages of 24 and 30 months [citations]." The Best Practice Guidelines further read, "[s]ince [autism spectrum disorder]-specific early intervention services are dependent upon early detection and formal diagnosis, it is imperative that young children be screened for [autism spectrum disorders], identified as being at risk and referred for comprehensive evaluation and assessment in an efficient and timely manner."^{5 6} Therefore, assessing Claimant at two years, six months is appropriate and warranted by the DSM-IV-TR diagnostic criteria, DDS regulations, and DDS's Best Practice Guidelines. Walker gave no persuasive clinical reason why she opined that Claimant was too young.

⁵ Neither party proffered the Best Practice Guidelines. However, the ALJ notes that Welfare and Institutions Code section 4643.3 directs DDS to "develop evaluation and diagnostic procedures for the diagnosis of autism disorder and other autistic spectrum disorders," "publish or arrange for the publication of the evaluation and diagnostic procedures," and make the publication "available to the public." The ALJ notes that the publication entitled, "Autism Spectrum Disorders, Best Practice Guidelines for Screening, Diagnosis and Assessment (2002)" is that publication the Legislature mandates. (See Govt. Code, § 11515; Evid. Code, § 452, subd. (h).)

⁶ The Best Practice Guidelines include autism within autism spectrum disorders. Also, the Best Practice Guidelines refer to the DSM-IV-TR as "the current standards for the diagnosis and classification of [autism spectrum disorders]."

22(c). Overall, Walker’s refusal to diagnose autism was based on faulty, inconsistent, and unpersuasive reasons that do not support such a refusal and is simply unsupported by the assessment data. As the assessment data established that Claimant has autism, and noting the DSM-IV-TR’s diagnostic criteria for PDD-NOS, Walker’s diagnosis of PDD-NOS is unpersuasive. (See Factual Finding 31, for the diagnostic criteria for PDD-NOS.)

23(a). Claimant now attends preschool within the Los Angeles Unified School District (LAUSD). Michiko J. Okamoto, M.A., NCSP, School Psychologist, performed a psychoeducational evaluation on Claimant on March 17, 2011. Claimant was two years, ten months of age at that time.

23(b). According to Okamoto’s report, Claimant interacted with others, played cooperatively, made eye contact and smiled frequently. Claimant’s “non-verbal and verbal cognitive ability could not be determined as he would not participate in the assessment activities.” Okamoto noted that Claimant communicated primarily by gesturing, and wrote, “[Claimant’s] deficits in communication impact his performance in the classroom in that he has difficulties establishing and maintaining relationships with peers and adults, expressing his wants and needs, and following teacher directives or requests.” Okamoto noted that, pursuant to Claimant’s parents, Claimant’s behavior changed after he stopped talking at 12 months of age. For example, Claimant used to enjoy bathing, but now he screams when placed in the bathtub. He eats crayons and chews pages off books. He rocks back and forth when watching television and sitting on a couch. He lines up toy cars and other toys. He enjoys being in the dark, he has a high pain threshold, he is sensitive to loud noises, and he walks on his tip toes when excited. Okamoto did not observe these behaviors during the evaluation; however, in her report, Okamoto did not dispute the accuracy of these descriptions or elicit data to contradict those descriptions.

23(c). Okamoto administered the Gilliam Autism Rating Scale—Second Edition (GARS-2). Okamoto found that “[b]ased on parental responses, [Claimant’s] overall probability of [a]utism was in the *very likely* range.” (Italics in original.)

23(d). Okamoto opined that Claimant’s “[i]nstruction in the classroom should be supported by breaking down tasks and assignments into smaller, more manageable pieces; matching academic tasks with [Claimant’s] interests and ability level . . . and implementing behavior management procedures . . . to increase the occurrence of rule-following, prosocial, and on-task behaviors and minimize the occurrence of off-task behavior.”

23(e). Okamoto found that Claimant’s language skills were at the 18-month level, his gross motor skills were within normal limits, and his fine motor skills, “appeared to be below age expectancy.”

23(f). Despite the GARS-2, given that Okamoto did not observe the autistic-like characteristics described by Claimant’s parents, Okamoto wrote, “[a]t this time [Claimant] does not meet the eligibility criteria as a child with [a]utism.” Instead, Okamoto noted that Claimant has an at least 50 percent delay in communication (expressive language) and at

least 25 percent delay in fine motor development (pre-writing skills), and concluded that Claimant “appears to meet the eligibility criteria as a child with [d]evelopmental [d]elay (DD) and may be in need of special education services.”

23(g). Okamoto did not testify. Neither party presented Okamoto’s credentials.

24. Claimant currently receives special education services through LAUSD.

25(a). Jennifer J. Hunter , M.A., CCC-SLP, LAUSD Speech-Language Pathologist performed a language and speech assessment of Claimant on the same day as the psychoeducational assessment by Okamoto. Hunter reviewed records, interviewed Claimant’s parents, and administered a number of tests.

25(b). Hunter found Claimant to have a 13-17 month level of development in receptive language and a 13-18 month level of development in expressive language. Hunter noted that the assessment results might have been affected by “parent report versus student performance.” Hunter failed to explain this statement, despite having interviewed Claimant’s parents and tested Claimant. Hunter wrote, “[b]ased on formal assessment, clinical observation and parent report, [Claimant’s] delays in receptive, expressive and pragmatic language development may interfere with his ability to access the core curriculum of a preschool Developmental Continuum.” Hunter found that Claimant “demonstrated difficulty understanding or using spoken language to such an extent that it has a significant adverse affect” on his educational performance.

25(c). Hunter noted that Claimant’s father had given him a bag of trail mix to eat and Claimant “sorted and categorized all the different ingredients in the packet . . . into little categories on the table.”

25(d). Hunter did not testify. Neither party presented Hunter’s credentials.

26. Claimant’s mother testified and stated that she knows Claimant is not normal. He will not allow his hair to be cut, due to sensitivity. He hits the walls at home and eats paint and plaster chips. He is still in diapers. Claimant’s mother acknowledged that she is not an expert in autism, but explained that while Claimant may look normal, he is not. Claimant’s mother firmly believes Claimant needs help.

27. According to his final Individual Family Service Plan (IFSP), on his third birthday, Claimant could not: pedal a tricycle, identify or point to eight body parts, or fasten large buttons. On his third birthday, Claimant still did not use words and he did not play with other children.

28. In the section of her diagnostic impressions within her written report, Walker made reference to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR). The DSM-IV-TR is published by the American Psychiatric Association.

29. Neither party offered any portion of the DSM-IV-TR at hearing. However, based on Walker's reference, the Administrative Law Judge officially notices the DSM-IV-TR and finds that its diagnostic criteria is universally accepted by psychologists and medical professionals in the United States. The ALJ's finding is based on his greater than six years experience hearing these types of matters and the assertions of licensed psychologists and psychiatrists in numerous administrative hearings on regional center eligibility, including licensed psychologists from the Service Agency. (See Govt. Code, §§ 11425.50, subd. (c), 11515; and Evid. Code, § 452, subd. (h).)

30. According to the DSM-IV-TR, a person has autism when s/he meets the following:

(A) A total of six (or more) items from (1), (2), and (3), with at least two from (1), and one each from (2) and (3):

(1) qualitative impairment in social interaction, as manifested by at least two of the following:

(a) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction

(b) failure to develop peer relationships appropriate to developmental level

(c) a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest)

(d) lack of social or emotional reciprocity

(2) qualitative impairments in communication as manifested by at least one of the following:

(a) delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime)

(b) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others

(c) stereotyped and repetitive use of language or idiosyncratic language

(d) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level

(3) restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:

(a) encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus

(b) apparently inflexible adherence to specific, nonfunctional routines or rituals

(c) stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements)

(d) persistent preoccupation with parts of objects

(B) Delays or abnormal functioning in at least one of the following areas, with onset prior to age 3 years: (1) social interaction, (2) language as used in social communication, or (3) symbolic or imaginative play.

(C) The disturbance is not better accounted for by Rhett's Disorder or Childhood Disintegrative Disorder.

31. The DSM-IV-TR describes PDD-NOS as follows:

This category should be used when there is a severe and pervasive impairment in the development of reciprocal social interaction or verbal and nonverbal communication skills, or when stereotyped behavior, interests, and activities are present, but the criteria are not met for a specific Pervasive Developmental Disorder, Schizophrenia, Schizotypal Personality Disorder, or Avoidant Personality Disorder. For example, this category includes "atypical autism"—presentations that do not meet the criteria for Autistic Disorder because of late age at onset, atypical symptomatology, or subthreshold symptomatology, or all of these.

LEGAL CONCLUSIONS

1. As Claimant seeks eligibility, Claimant bears the burden of proof. The standard of proof is a preponderance of the evidence.

2. Welfare and Institutions Code section 4512 states:

(a) “Developmental disability” means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

3. California Code of Regulations, title 17, section 54001 states in pertinent part:

(a) “Substantial disability” means:

(1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person’s age:

- (A) Receptive and expressive language;
- (B) Learning;
- (C) Self-care;
- (D) Mobility;
- (E) Self-direction;
- (F) Capacity for independent living;
- (G) Economic self-sufficiency.

(b) The assessment of substantial disability shall be made by a group of Regional Center professionals of differing disciplines and shall include consideration of similar qualification appraisals performed by other interdisciplinary bodies of the Department serving the potential client. The group shall include as a minimum a program coordinator, a physician, and a psychologist.

(c) The Regional Center professional group shall consult the potential client, parent . . . educators, advocates, and other client representatives to the extent that they are willing and available to participate in its deliberations and to the extent that the appropriate consent is obtained.

4. Walker did not diagnose Claimant with autism. But, Walker's reasoning was unpersuasive.

5. Like Walker, LAUSD's Okamoto also did not diagnose autism. However, it was not established that LAUSD's psychoeducational evaluation was intended to diagnose or rule out autism. Further, without Okamoto's testimony, with no evidence of Okamoto's background and credentials in the field of psychology, and noting that Okamoto did not administer the ADOS (but found Claimant to be in the "very likely range" for autism using the GARS-2), Okamoto's findings cannot be given any significant weight in ruling out autism.

6. Walker's administration of the ADOS, together with the descriptions of Claimant's behaviors and abilities established that Claimant has autism.

7. It is settled that the trier of fact may "accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted." (*Stevens v. Parke Davis & Co.* (1973) 9 Cal.3d 51, 67.) The trier of fact may also "reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material." (*Id.* at 67-68, [quoting from *Neverov v. Caldwell* (1958) 161 Cal.App.2d 762, 767.]) Further, a trier of fact may reject the testimony of a witness, including an expert witness even if it is uncontradicted." (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 890. An expert's credibility may be evaluated by examining the reasons and factual data upon which the expert's opinions are based. (*Griffith v. County of Los Angeles* (1968) 267 Cal.App.2d 837, 847.)

8. Walker's reasoning for withholding the diagnosis of autism from Claimant was carefully considered, as Walker is the licensed psychologist who evaluated Claimant and testified as to her findings and diagnosis. For the reasons set forth in Factual Findings 20-22, however, her reasoning was faulty, unconvincing, and unpersuasive. The body of evidence describing Claimant's functioning, including his ADOS scores, Claimant's overall behaviors, and his skill deficits, as found and described by Walker, all clearly, undoubtedly, and simply meet the diagnostic criteria for autism. For Walker to nonetheless withhold the diagnosis of autism is untenable in the face of such evidence. The evidence established, by more than a preponderance, that Claimant has autism.

9. The evidence further established that Claimant is substantially disabled by autism, pursuant to the applicable regulations. Claimant has a significant functional limitation in his receptive and expressive language. He has a significant functional limitation in learning. Pursuant to the undisputed descriptions of Claimant's daily living skills and behaviors, Claimant has significant functional limitations in self-care and self-direction, as appropriate to his age. With functional limitations in more than three areas, Claimant is substantially disabled by autism. (Cal. Code Regs., tit. 17, § 54001.) Thus, Claimant has a developmental disability, as set forth in Welfare and Institutions Code section 4512, and is eligible for services from the Service Agency.

10. Cause exists to grant Claimant's appeal, as set forth in Factual Findings 1-31, and Legal Conclusions 1-9.

ORDER

Claimant's appeal is granted in case number 2011060458. Claimant has a developmental disability, as defined in Welfare and Institutions Code section 4512, subdivision (a), specifically, autism that is substantially disabling. He is therefore eligible for services from the South Central Los Angeles Regional Center.

Dated: September 7, 2011

DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. This Decision binds both parties. Either party may appeal this Decision to a court of competent jurisdiction within 90 days.